Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
	)	
Schools and Libraries Universal	)	CC Docket No. 02-6
Service Support Mechanism	)	
	)	
	)	

REPLY COMMENTS OF THE

INFORMATION TECHNOLOGY INDUSTRY COUNCIL

The Information Technology Industry Council ("ITI") respectfully submits

these comments in response to the Federal Communications Commission's

("FCC's") recent Notice of Proposed Rulemaking in the above-captioned docket.[1]

ITI and its member companies are dedicated to improving our nation's

education system[2] and have long supported the E-Rate program as one

important way to achieve that goal.[3] ITI is the association of the leading

information technology companies. ITI member companies employ more than 1

million people in the United States and exceeded $668 billion in worldwide

revenues in 2000.

The FCC is seeking comments on changes to the application process,

post-commitment program administration, appeals, enforcement tools, and

unused funds.

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[1]   *Schools and Libraries Universal Service Support Mechanism*, CC Dkt. No. 02-6, Notice of
Proposed Rulemaking and Order, FCC 02-8, (rel. January 25, 2002) ("NPRM").

[2]   Letter to President George W. Bush from 18 CEOs of the Information Technology
Industry Council, www.itic.org/policy/wkfc0103_ceoltr.pdf

[3]   Brief of Intervenor Information Technology Industry Council, Texas Office of Public Utility
Counsel v. FCC, www.itic.org/policy/fcc_erate.pdf

I. Application Process – Eligible Services List

The application process change proposal would empower the FCC to pre-approve new services and post a list of approved goods and services on its web site. Applicants could only apply for pre-approved services. ITI applauds efforts to simplify the application procedure by clarifying the product eligibility rules. However, given that technology and solutions change constantly such a rigid system of approvals could create serious logistical problems. Moreover, a list of approved services could create intense lobbying of the SLD to pre-approve new services, further slowing the review and approval of applications.

While ITI takes no position on the creation of a list of eligible services, if such a list is created, it should include the following components: a formal process for review and approval of products; inclusion of product name, manufacturer's name, and if eligible under certain conditions; and a specific timeline for approval. It is also essential that the applicant have the opportunity to apply for products not on the list. Due to the process of required pre-approval, the list will never be totally up to date. Furthermore, products may be in the approval process at the time the application needs to be submitted.

Alternative action by the FCC to improve program clarity and understanding is welcome. The FCC should improve clarity regarding products and services that are eligible for E-rate funding by providing more details and descriptions for each service category; clearly outlining the evaluation process and timeline for getting new products and services reviewed; and establishing a

mechanism for schools, libraries and service providers to verify in a timely manner whether a product or solution is available.

II. Post-Commitment Program Administration – Equipment Transferability

The FCC is seeking comments on a proposal to limit transfers for three years from the date of delivery and installation of equipment for internal connections and ten years in the case of cabling. ITI recognizes that this is an attempt to limit abuse of the program but also recognizes the legitimate need for transfers. In its current form, ITI has serious concerns regarding the flexibility and workability of this proposal. If the proposed rules are put in place, they should be flexible and allow for exceptions. In sum, the SLD must provide an application procedure to such a school, if there is a legitimate reason for a transfer. The program must also seek to avoid placing additional burdens on vendors to monitor equipment after the sale to ensure it's not transferred.

III. Post-Commitment Program Administration – Funding Limitations

The FCC is also seeking comments on a proposal to deny internal connection discounts to any entity that has already received discounts on internal connections within a specified period of years regardless of the intended use of the new equipment. ITI has serious concerns that the proposed rule change would distort planning and disrupt maintenance contracts. If the FCC adopts this rule, it should, at a minimum, exempt yearly maintenance contracts from the rule.

IV. Enforcement Tools – Independent Audits

The FCC is seeking comments on a proposal to authorize the Administrator to require independent audits of recipients and service providers at the expense of those entities where there is reason to believe that problems exist. ITI does not support this change. The additional burden on both the applicant and the service provider is unnecessary and financially substantial. Small school districts and small service provider vendors do not have the financial resources to pay for audits. It is also unclear what the guidelines are that cause an audit or the time period in which they will be conducted.

V. Unused Funds

The FCC is seeking comments on several options for the use of unused funds, including modifying the rules to require the distribution of funds in subsequent years of the E-Rate program, in excess of the annual cap. ITI recommends that rollover of unused funds from the given funding year, and previous funding years, goes immediately into the total funding pot for the next year. This is the only way to quickly address the obvious need of the schools and maintain some constant level of funding predictability for future applicants to plan on.

ITI appreciates the opportunity to express its concerns about the proposed rule changes and looks forward to working with the FCC to achieve the goals of the E-Rate program.

Respectfully submitted,

**INFORMATION TECHNOLOGY
INDUSTRY COUNCIL**

/s Matthew J. Tanielian
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